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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,328	02/15/2001	Kazuhiko Nobe	Q63117	3179

7590 08/11/2004

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EXAMINER	
JONES, SCOTT E	
ART UNIT	**PAPER NUMBER**
3713	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/783,328	NOBE ET AL.	
	Examiner	Art Unit	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 February 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *03092004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on May 19, 2004 in which applicant amends claims 1 and 3-13, and responds to the claim rejections. Claims 1-13 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ota (EP 823,270).

Ota discloses a video dance game apparatus having a dance music signal including a beat signal data output from the game sound source (4). The game sound source (4) may include a reproducing device such as a CD player, a DVD player or the like to reproduce a music sound from an information record medium such as a CD, DVD, or the like. This beat signal data is inputted to the CPU (1). The CPU detects a timing at an on-beat, on the bases of this beat signal data, and then compares this timing at the on-beat with a timing of a played performance to calculate a score (Page 2, line 49-Page 3, line 7, Page 10, lines 24-44, Page 14, lines 43-50, and Figures 1 and 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ota (EP 823,270) in view of Okamoto (U.S. 5,735,744).

Ota discloses to one having ordinary skill in the art that as discussed above regarding claims 1-8 and 11-13. Although Ota discloses obtaining music data from a CD for a music game apparatus, Ota seems to lack explicitly disclosing:

Regarding Claims 9 and 10:

- obtaining music data from a music data distribution server via a communications network for game music.

Okamoto, like Ota, discloses an interactive communication system for video games. Therefore, Okamoto and Ota are analogous art. Furthermore, Okamoto teaches:

Regarding Claims 9 and 10:

- obtaining music data from a music data distribution server via a communications network for game music (Column 1, lines 49-53, Column 2, lines 8-17, Column 3, lines 54-63, and Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention to modify Ota such that the game music would be obtained from a music data distribution server via a communications network as in Okamoto rather than a music CD.

One would be motivated to obtain the game music from a music data distribution server via a communications network so that a player would not have to purchase and carry around a CD or other software each time they wanted to play a game making playing the game much more convenient to the player.

Response to Arguments

6. Applicant's arguments filed May 19, 2004 have been fully considered but they are not persuasive.

7. Applicant traverses the rejection to claims 1-8 and 11-13 under 35 U.S.C. 102(b) as being clearly anticipated by Ota (EP 823,270). Applicant alleges the "general dance music CD (CD or music CD) is not the predetermined commercially available music CD contemplated by the instant invention. However, the examiner respectfully disagrees. Ota contemplates generating a music signal from a CD at page 8, lines 30-44, page 10, lines 24-34, and page 14, lines 43-44. The examiner asserts Ota's broad disclosure of a music CD does not preclude the game player's CD from being a predetermined commercially available CD especially since the game generation beat information on the basis of the music signal and the dance performance data pieces are resident in the program storage device (can be any number of different types of storage devices such as CD, RAM, ROM, hard disk drive, etc.) of the video dance game. Therefore, the music CD provided by the player would necessarily be a predetermined music CD since game generation beat information and dance performance data pieces are already stored in memory of the video dance game device.

Applicant alleges Ota does not disclose the method to associate the general dance music CD with the operation timing data. Furthermore, Applicant alleges Ota does not disclose that the

timing data is prepared beforehand as now claimed. The examiner respectfully disagrees. Ota must associate the general dance music CD with the operation timing data in order to generate beat information on the basis of the music signal, and to select and read out one of the dance performance data pieces stored in the program data storage device (Page 8, lines 30-44).

Applicant also alleges there is no judgment made with regard to whether the commercially available music CD is a predetermined type of CD based on recorded content. However, the examiner respectfully disagrees. Ota must associate the general dance music CD with the operation timing data in order to "generate beat information on the basis of the music signal, and to select and read out one of the dance performance data pieces stored in the program data storage device (Page 8, lines 30-44). For the reasons discussed above, the examiner maintains the rejection as stated in previous Office Action No. 23.

8. Applicant traverses the rejection to claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Ota (EP 823,270) in view of Okamoto (U.S. 5,735,744) because the arguments for distinguishing over Ota allegedly are not overcome by the teachings of Okamoto. The examiner respectfully disagrees. Please see the response in Item No. 7.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN M. HOTALING, II
PRIMARY EXAMINER